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**APR 15 2005**

**OFFICE OF PETITIONS**

In re Application of	:	
Mary Jane Cardosa, et al.	:	
Application No. 10/786,380	:	DECISION ON PETITION
Filed: February 24, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2316.2009-000	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.


The petition is **DISMISSED AS MOOT** for the reasons stated below.

In the instant case, the Office recognized the claim for benefit of prior-filed nonprovisional application, number 09/147,919, filed March 23, 1999, said claim appearing in the Utility Patent Application Transmittal, filed with the instant application on February 24, 2004. In view thereof, a petition under 37 CFR 1.78(a)(3) is unnecessary.<sup>1</sup>

In view of the dismissal of the instant petition as moot, the \$1330 fee submitted therefor is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 08-0380 in due course.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being returned to Technology Center Art Unit 1648 for examination in due course.

  
Frances M. Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

<sup>1</sup> Note MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.